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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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CLARKE AND REBECCA WIXON, et al.

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Plaintiffs,

No. C 07-02361 JSW

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v.

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WYNDAM RESORT DEVELOPMENT CO.
(f/k/a TRENDWEST RESORTS, INC.), et al.

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Defendants.

**NOTICE OF ADDITIONAL
QUESTIONS FOR HEARING**

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE
NOTICE OF THE FOLLOWING ADDITIONAL QUESTIONS FOR THE HEARING
SCHEDULED ON APRIL 11, 2008, AT 9:00 A.M. The statements set forth in the Notice of
Questions for Hearing issued on April 9, 2008 apply here.

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1. Is there a definition of "Voting Power" in the record?
2. The Security Agreement that is part of the Governing Documents provides, in part:
ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL
CLAIMS AND DEFENSES WHICH THE DEBTOR (OWNER) COULD ASSERT
AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT
HERETO OR WITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY
THE DEBTOR (OWNER) SHALL NOT EXCEED AMOUNTS PAID BY THE
DEBTOR (OWNER) HEREUNDER.
- How does this notice impact Wyndham's argument that it is not selling "goods" or
"services" under the CLRA?
3. According to the Governing Documents, Worldmark charges members a \$150.00 fee to
transfer Vacation Credits. Doesn't this fact suggest that a restriction on the ability to
transfer Vacation Credits on the open market impacts Worldmark by reducing the
amount of fees to which it would otherwise be entitled?
4. Plaintiffs contend that Wyndham violated the provisions of the Governing Documents,
including the Declaration, by, *inter alia*, abandoning the relative use value and taking

1 actions that preclude the "first come, first served" reservation system. What is
2 Plaintiffs' best argument that any injuries arising from those alleged breaches are not
injuries to Worldmark and its membership as a whole?

3 Conversely, according to the Amended Complaint, Wyndham sells the Vacation Credits
4 at issue to Plaintiffs and make representations to Plaintiffs at the time of purchase. To
the extent Plaintiffs allege that they entered into a contract with *Wyndham*, what is
5 Wyndham's best argument that Plaintiffs do not have a direct cause of action for alleged
breaches of that contract?

6 Dated: April 10, 2008

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8 JEFFREY S. WHITE
9 UNITED STATES DISTRICT JUDGE